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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,795	01/17/2001	Ken Wright	DATCAR.003A1	5945

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EXAMINER

NGUYEN, HUY THANH

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/761,795

Applicant(s)

WRIGHT ET AL.

Examiner

HUY T NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2,7-11, 13-15, 17-21 and 34-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Herzog (6,241,668).

Regarding claims 1,2, 13 -15 and 34-35, Herzog discloses a system (Figs. 1-2) for recording a first set of medical image data on a portable digital recording medium, comprising: a receiving module configured to receive said first set of medical image data from camera or recorder or scanner); a processing module 22 configured to process said first set of medical image data; and an output module configured to transmit said first set of medical image data to a first device (CD writer) configured to record said first set of medical image data on said portable digital recording medium (CD), wherein a viewing program configured to view said first set of medical image data is stored on said portable digital recording medium (column 3, lines 40-50, column 4, lines 15-23).

Regarding claim 2, further teaches the viewing program is recorded on said portable digital recording medium by said first device.

Regarding claims 7-8 and 18-19, Herzog further teaches the portable digital recording medium is an optical disk and is a CD (column 3, lines 40-50).

Regarding claims 9 and 17, Herzog further teaches the output module is configured to transmit said second set of medical image data to said first device (Fig. 1 column 3).

Regarding claims 10,11 and 20-21, Herzog further teaches the receiving module is configured to receive said first set of medical image data from an image server (Fig. 1, column 3).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog (6,241,668) in view of Nishihara et al (5,272,625).

Regarding claims 3-4, Herzog fails to teach the first device is configured to print a label on said portable digital recording medium.

Nishihara teaches a system for receiving the image data and associated labels and for storing the image data and associated label on a file (column 10, lines 20-35).

It would have been obvious to one of ordinary skill in the art to modify Herzog with Nishihara by providing the images data of Herzog with associated labels thereby enhancing the capability of the system of Herzog in retrieving the images data.

Herzog as modified with Nishihara fails to specifically teach the use of a printer for printing the labels.

However, it is noted that using a printer for printing an image from a stored or received image is well known in the art. Therefore, Official Notice is taken and it would have been obvious to one of ordinary skill in the art to modify Herzog as modified with Nishihara by using a printer for printing the label on the disc.

5. Claim 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog (6,241,668) in view of Stoodley (US 2004/0078236 A1).

Regarding claims 5 and 16, Herzog fails to teach creating audit information. However, it is noted that creating audit information for a device is well known in the art for purpose of billing as taught by Stoodley (section 0019, page 1). Therefore, it

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would have been obvious to one of ordinary skill in the art to modify Herzog with Stoodley by using a means for creating audit information for the recording medium of Herzog for billing purposes.

6. Claims 6, 12, 22,23 and 25-33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog (6,241,668) in view of Tanaka (6,564,256).

Regarding claims 6 , 23 , 25-33 and 36, Herzog discloses a system (Fig. 1) for recording a first set and second set of medical image data on a portable digital recording medium, comprising: a receiving module configured to receive said first set of medical image data; a processing module configured to process said first set of medical image data; and an output module configured to transmit said first set of medical image data to a first device configured to record said first set of medical image data on said portable digital recording medium (CD) (column 3, lines 40-48, column 4 line 15-25), wherein a viewing program configured to view said first set of medical image data is stored on said portable digital recording medium column 2, lines 20-68).

Herzog fails to teaches a transmitting means for retrieving and transmitting a plurality of medical image sets to plurality of user terminal . Tanaka teaches a system having transmitting means for retrieving and transmitting a plurality of medical images sets to user terminals and a browser at each user terminal for browsing the medical images transmitted to the terminals (column 8, lines 45-65). It would have been obvious to one of ordinary skill in the art to modify Herzog with Tanaka providing the system of Herzog with a browser as taught by Tanaka in order to

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enhancing the capability the Herzog system for facilitating selecting, viewing and recording the medical image sets.

Regarding claims 12 and 22, Herzog as modified with Tanaka further teaches receiving the medical images in DICOM format (See Tanaka, column 4, lines 31-40).

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog (6,241,668) in view of Tanaka (6,564,256) as applied to claims 23 above, further in view of Stoodley (US 2004/0078236 A1).

Regarding claim 24, Herzog fails to teach creating audit information. However, it is noted that creating audit information is well known in the art for purpose of billing as taught by Stoodley (section 0019, page 2). Therefore, it would have been obvious to one of ordinary skill in the art to modify Herzog with Stoodley by using a means for creating audit information for the recording medium of Herzog for billing purposes.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (571) 272-7375. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N


HUY NGUYEN
PRIMARY EXAMINER